

The Gazette of India

EXTRAORDINARY

PART II—Section 2

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COUNCIL OF STATES

The following Bill was introduced in the Council of States on the 23rd April, 1954:—

BILL NO. IX OF 1954

A Bill to regulate and license institutions caring for women and children.

WHEREAS it is expedient to enact a law to regulate and license orphanages and other institutions caring for women and children under eighteen years of age and to provide for the proper custody, care and training of their inmates, it is hereby enacted as follows:—

PART I

PRELIMINARY

1. Short title and extent.—(1) This Act may be called the Women's and Children's Institutions Licensing Act, 1954.

(2) It extends to all the Part C States.

2. Commencement.—Section 1 shall come into force at once. The rest of the Act, or any other provision thereof shall come into force in any area on such date or dates as the Government of India may, by notification in the Gazette of India, declare.

3. Savings.—The Government of India may, by notification in the Gazette of India, direct that all or any of the provisions of this Act shall not apply to any specific class of institutions or children in any Part C State or in any particular area thereof.

4. Definitions.—(1) In this Act, unless there is anything repugnant to the subject or context,—

(i) "child" means a boy or a girl who has not attained the age of eighteen years;

(ii) "fit person" includes an institution, association or body of individuals, whether incorporated or not, established for or having for its object the reception or protection of women or

children or the prevention of cruelty to children or exploitation, of women for immoral purposes and which undertakes to train and rehabilitate, or to bring up or to give facilities for training or rehabilitation or bringing up of any woman or child entrusted to its care in conformity with the religion of her or his birth;

(iii) "licensing authority" means the District Magistrate of a district or any special officer appointed by the District Magistrate to perform on his behalf the duties of the licensing authority;

(iv) "manager" means the owner and any person having or acting in the care or management of a women's or children's institution, vigilance home, rescue home, shelter or other such institution and also includes the members of the Governing Body of that institution, if any;

(v) "probation officer" means a probation officer or an inspector appointed under this Act or any other Act for vigilance work;

(vi) "woman" denotes a female of eighteen years of age and above;

(vii) "women's or children's institution" means an orphanage, vigilance home, rescue home, shelter or any other home or place, run by Government or a local authority or organisations, which accepts for care five or more women and/or children or which is so organised or administered that its service is essentially institutional in character regardless of the number of inmates cared for;

(viii) "year" means the calendar year of Christian era.

(2) Words and expressions used and not defined in this Act but defined in the Code of Criminal Procedure, 1898, shall have the meaning assigned to them in that Code.

PART II

LICENSING

5. Licence required to run a children's institution.—No person, association or corporation shall, without first having obtained a written licence from the licensing authority, own, establish, maintain or conduct any women's and children's institution, vigilance home, rescue home, or shelter, under any name for the reception or care of women and/or children nor shall either receive or care for any woman or child in the absence of her husband, parent or lawful guardian with or without maintenance:

Provided that wherever these exist, no institution will admit inmates of different sexes above the age of 10 years in the same place.

6. Application for licence.—(1) An application for securing licence for an institution shall be made in writing in the prescribed form by the manager of any such institution caring for women and/or children to the licensing authority.

(2) The licensing authority shall thereupon cause enquiry to be made in respect of such application with special reference to the constitution, aims, objects and financial stability of the organisation, as also arrangements for board and lodging, general health of the inmates and facilities for their education, medical treatment, industrial training and rehabilitation.

(3) The licensing authority on such enquiry may, if satisfied, grant a licence in respect of such place, and the licence shall remain in force for the calendar year subject to such conditions and requirements as may be prescribed.

(4) The licence, besides giving the name of the institution, its managers and its location, shall specify the number, sex, age and other limitations as to the women or children to be admitted and the facilities for their training and shall lay down a fee of Re. 1 per capita for the inmates.

7. Renewal of licence.—Application for renewal of a licence shall be filed at least thirty days prior to its expiration. If no such application is filed, the licence shall automatically cease at the end of the calendar year.

8. Transfer of licence.—No licence shall be transferable.

9. Change of location or services not permitted.—The location of any institution specified in the licence and the performance of any service specified therein shall not be changed without the written consent of the licensing authority.

10. Register of records.—Every holder of a licence shall maintain a register in the prescribed form setting forth the following facts concerning each woman or child on admission received into the care or charge of the holder of the licence or placed in any other home by such licence-holder—

- (a) name of the woman or child;
- (b) Age——sex——religion——;
- (c) condition of her or his health on admission;
- (d) last address;
- (e) nearest of kin;
- (f) names of father and mother stating whether dead or living; name of husband in case of a married woman or girl;
- (g) person responsible for her or his care;
- (h) amount, if any, paid for care;
- (i) name of person or agency seeking admission of the woman or child;
- (j) reasons for admission;
- (k) terms and conditions of admission;
- (l) a brief history of the case; and
- (m) such other data as from time to time may be required by the licensing authority.

11. Holder of licence to file copy of register.—Every holder of a licence shall file a copy of the register with the licensing authority at the time of issue of the licence.

12. Monthly statement of admissions and discharges to be filed.—The holder of the licence shall further furnish to the licensing authority a monthly statement in the prescribed form of all new admissions and discharges. Every licence-holder shall be deemed to be the lawful guardian of every inmate recorded under the provisions of this Act.

13. Death of child or change in administrative personnel to be reported.—Upon the occurrence of death of any inmate or changes in the administrative personnel of any such institution, the holder of the licence shall within forty-eight hours give written notice thereof to the licensing authority:

Provided that the incident of a sudden death shall be reported immediately.

14. Managers of licensed institutions bound to teach and train every child admitted.—(1) The managers of licensed institutions run on charity shall be bound to teach, train, lodge, clothe and feed every woman or child admitted in their institution till the woman is rehabilitated or the child attains the age of eighteen years or until their withdrawal from the institution or the expiration of the licence of the institution.

(2) Where a woman inmate has a paying guardian as envisaged by clause (h) of section 10, the institution need not be held responsible for the rehabilitation of the woman.

15. Penalty for operation without licence.—(1) Any person, association or corporation that maintains or conducts as manager or officer or in any other administrative capacity or assists in maintaining or conducting any institution or performance of any service specified in section 5 of this Act, without first having obtained a licence, shall be guilty of an offence punishable with fine up to two hundred rupees.

(2) The inmates of any such institution shall be removed therefrom and placed in some other licensed institution by the licensing authority.

PART III

MANAGEMENT AND INSPECTION OF INSTITUTIONS

16. Governing Body.—Every institution licensed under this Act and having more than twenty-five inmates shall be under the management of a Governing Body, the members of which shall be deemed to be the managers of the institution for the purposes of this Act and shall be deemed to be responsible for the policies, procedures and general business of the organization.

17. Audited accounts to be submitted to the licensing authority.—Every institution shall maintain proper accounts of all sums of money received and spent, and shall file with the licensing authority an annual statement of accounts.

18. Inspection by the licensing authority.—(1) Any licensed institution may be inspected at all reasonable hours by the licensing officer or any member of his inspecting staff for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(2) The licensing officer or any member of the inspecting staff shall have power to enter a licensed institution at all reasonable hours and to make a complete inspection thereof and of all registers relating thereto, and the person in-charge of the place shall afford all reasonable facilities for such inspection.

(3) The officer so inspecting shall, at the conclusion of his inspection, record his remarks in the visitors' book of the institution.

(4) The licensing authority shall communicate to the institution inspected by him or his representative any suggestion he has to make on receiving the report of his representative.

19. Government, if dissatisfied, may withdraw licence.—(1) The State Government on a report from the licensing authority, if dissatisfied with the conditions, rules, management or superintendence of a licensed institution, may, at any time, by notice served on the managers of the institution withdraw the licence as from a date specified in the notice, and the institution shall cease to function from that date.

(2) The State Government may, instead of cancelling a licence under sub-section (1) by notice served on the managers of the institution, prohibit the admission of women or children, as the case may be, to the institution for such time as may be specified in the notice or until the notice is revoked:

Provided that before the issue of a notice under sub-section (1) and/or sub-section (2), a reasonable opportunity shall be given to the managers of the institution to show cause why the licence may not be withdrawn or admission to the institution may not be prohibited, as the case may be.

20. Resignation of licence by managers of an institution and its effect.—(1) The managers of a licensed institution may, on giving six months' notice in writing to the State Government through the licensing authority of their intention to do so, apply for cancellation of the licence of the institution, and accordingly at the expiration of six months from the date of notice, unless before that time the notice is withdrawn, the cancellation of the licence shall take effect and the institution shall cease to function.

(2) A woman or child shall not be received into a licensed institution after the date of receipt by the managers of the institution of a notice of withdrawal of licence or after the date of a notice of cancellation of the licence:

Provided that the obligation of the managers to teach, train, lodge, clothe and feed inmates in the institution shall continue until the withdrawal or cancellation or the licence takes effect.

21. Disposal of children on cancellation of licence of an institution.—The licensing authority, on cancellation of the licence of any place under the foregoing sections or otherwise closing down of an unauthorised institution under section 15, may direct that any woman or child who is an inmate of such place, be,—

(a) preferably transferred to another licensed institution wherever one such institution exists;

(b) restored to the custody of her or his parent, husband or guardian, as the case may be; or

(c) released to the care of any other fit person.

22. Power of State Governments to make rules for management of institutions.—The State Government shall make such rules and regulations as they deem fit for the management of the licensed institutions or for the performance of their services.

23. Local authority competent to fix standards for sanitation, health and hygiene for institutions.—The provisions of this Act shall not prevent the local authority of any city or district from adopting rules and regulations prescribing standards of sanitation, health and hygiene for institutions, vigilance homes, rescue homes, shelters, boarding homes or other places for the reception or care of women and children, not in conflict with the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In a fully developed welfare State the care and education of children, particularly the poor and homeless, has to be the first and the entire responsibility of the State, as the State alone can satisfactorily cater to the all-round care of its greatest asset and treasure, its children, the future generation. Until this is practicable, it is the primary duty of the State to strictly supervise institutions meant for needy children and women.

It is common knowledge that a good many orphanages and women's homes are at present run out of motives which are not beyond question. With a view, therefore, to regularising the conduct of these homes, present as well as future, and with a view to ensuring that they are run on good and sound principles of health and hygiene thereby protecting the interests of the helpless, needy and innocent children, it is necessary to introduce legislation forthwith.

State recognition through grant of licences, as also frequent supervision of the premises and the accounts of the institutions will act as a much needed check on the conduct of the institutions.

The Bill accordingly seeks to give effect to the above objectives

SEETA PARMANAND.

NEW DELHI;

The 22nd March, 1954.

S. N. MUKERJEE,
Secretary.